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Jeremy Uvalle

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, Plaintiff, vs. JEREMY GILLERMO UVALLE, Defendant.	NO. 16-cr-02024-SAB DEFENDANT UVALLE'S SENTENCING MEMORANDUM SENTENCING: 4/12/2017, 11:00 A.M.

Comes now the defendant, Jeremy Uvalle, by and through counsel of record, Robin C. Emmans, and submits his sentencing memorandum for this court's consideration. He seeks a sentence of credit for time served (roughly 11 months at the filing of his memorandum).

There is much in Jeremy Uvalle's personal history, current physical and psychological condition, and in the facts of this crime to support defendant's argument that the penalty he has already served is more than adequate. Those arguments are set forth below.

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Characteristics of the Defendant

Jeremy Uvalle is an active, creative 37 year old man with a ready smile. He grew up here in Yakima, but was deprived of his father at an early age by a tragic car accident. Jeremy was only 3 when his parents separated and 10 when his father died. His grandmother took custody of Jeremy and his brother, raising them after his mother was incarcerated. At 13, though his brother stayed with grandmother, Jeremy moved back to live with his mother.

Throughout that time, his brother taught him a love of music, and Jeremy developed a talent for writing and producing rap music. At 17, he moved to Seattle to work construction and pursue music. He took on events as a DJ, and self-published several CDs. These he sold at car shows and the like until he caught the attention of some performers on tour. Over the years, Jeremy continued to write and produce songs, DJ events and to collaborate with other artists, even spending time touring with others out of Houston, Texas. In 2009, he moved to Las Vegas, Nevada for the same reason, where he continue to collaborate with other artists and further develop his own record label before derailing himself with a grand larceny conviction and prison sentence by the State of Nevada.

Jeremy's mother, to whom he remained close, moved with him to Las Vegas so that he could take care of her. She returned to Yakima after he was convicted in Nevada, and when she became ill with cancer, he was granted a leave of absence to

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be with her. She died of complications related to cancer in 2015. Within a year, Jeremy's girlfriend also died unexpectedly. These losses shook Jeremy to his core. This prosecution and the imprisonment which has come with it have further required him to re-evaluate his priorities and his choices in life. Jeremy's history is a reflection of the struggle for a creative, ambitious young man to overcome the challenges of growing up fatherless, with a mother imprisoned during formative years. He had trouble early in the juvenile courts, tried to move past that, and tried to do better. But Jeremy's history is also very likely a reflection of his own psychological idiosyncrasy. Time after time, he associates with the wrong people or processes events in a way that leads to trouble.

It has been clear while Jeremy has been in custody during the pendency of this case that incarceration is especially hard on him. As discussed in mitigation below, he has exhibited unusual responses to the courts system and criminal process. Because of these dynamics, further incarceration would not serve its intended purpose and may do additional harm to someone with fluid competency as discussed by Dr. Muscatel.

Nature and circumstances of the offense

The circumstances of this case should be noted, in that Mr. Uvalle wasn't actually doing anything that brought the attention of law enforcement to his activities on the night of the events in this indictment. That particular evening, Josh Collett

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had asked him to come out and DJ an event for him. Because Jeremy didn't have a car or license at the time, Josh picked him up, together with his DJ recording equipment and other belongings. They had stopped at a local hotel, and Jeremy had gone into the building. Josh and his passenger stayed in the car and decided to light up obvious bongs. This caught the attention of Yakima Police Department officers driving past, and the officers naturally stopped to investigate. Mr. Collett and his passenger were arrested, and the car impounded. By the time Jeremy came back to the car, they had been removed to patrol cars and the car seized, though not yet towed. He was unable to retrieve his DJ equipment, and was sent on his way on foot, being of no interest to the police. Later, after the car had been searched, law enforcement ran fingerprints on a handgun found tucked away under the center console. Prints matching Jeremy's were found on the magazine, and these charges resulted.

While it is clear that, having incurred a prior felony conviction, Jeremy is not allowed to handle guns, it is important to point out that he was not found in active possession, nor did he use or threaten to use the weapon. There is merely the indication by virtue of fingerprints that at some point, he handled the weapon. The police interaction with him during the pendency of this investigation was peaceful, and he merely annoyed one of the officers at the scene by repeatedly trying to talk

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them into letting him get his belongings out of the car, and later called in for the same reason.

The need to reflect the seriousness of the offense, to promote respect for the law, to provide just punishment for the offense, to afford adequate deterrence to criminal conduct, to protect the public from further crimes of the defendant and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

The seriousness of this offense is more than reflected by the time already served. As noted above, this is a mere possession charge, no allegation of violence is hinted at. In terms of deterrence, again, this is a case of a person merely having handled and had access to a gun. Given the national tendency to see possession of guns as a matter of right, the fact that a person categorically stripped of that right spends any amount of time imprisoned for merely handling a weapon is startling. In terms of individual deterrence, Jeremy has spent a frustrating term of 11 months at the Yakima County Jail. It has been difficult for him, and as a very active and physically fit person, he has had to adjust to narrow confinement. He will not soon forget this experience. As a father, Jeremy highly values the time he has with his children, the oldest of whom will soon no longer be a child. He also sees that he himself, having grown older and matured over time, has experienced a shift in values and priorities. His love of music continues of course, but his emphasis has shifted from producing his own music to encouraging others to pursue their talents. While his own efforts and talent have developed the connections to the music industry that

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15 years ago he would have seen as an opportunity for personal glory, he now sees himself as a person with the experience and connections to give others a leg up. Time in custody has forced him to reflect on these changes and the necessity of adjusting his lifestyle. Despite his early childhood challenges and the difficulties presented by his mental health, he shows that he can learn and has matured.

Kinds of sentences available

The guidelines call for incarceration. Jeremy Uvalle has already served a substantial amount of time in full custody. This court could find this to be adequate, and Mr. Uvalle requests that finding.

Advisory Sentencing Guidelines

Mr. Uvalle's advisory range is 18-24 months, according to an offense level of 13 and criminal history category IV.

The need to avoid unwarranted disparities

Statistically, with regard to sentencing for unlawful possession of firearms, a departure below the range is appropriate to avoid unwarranted disparities. These are cases in which only about half of defendants are sentenced within the guideline range, including government sponsored reductions, and non-government sponsored.[1] In 2015, offenders who received sentences below the range (non-government sponsored)

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[1] See USSG *Quick*Facts Felon in Possession of a Firearm publication, http://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Quick_Facts_Felon_in_Possession_FY15.pdf.

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received an average reduction of 32.4%. Furthermore, the rate of people receiving sentences below the range appears to be continuing to climb, from 19.5% in 2011 to 22.6% of defendants in 2015, again just for the category of non-government sponsored reductions. Thus, even without consideration of the unique circumstances of this case and mitigating factors discussed below, Mr. Uvalle's requested sentence would present no disparity.

Mitigation, 18 USC 3553 (b)

Defendant has consulted with Dr. Kenneth Muscatel, first at the request of predecessor counsel, who had a concern as to competency to stand trial. There is no question but that Jeremy Uvalle's mind works along different lines of reasoning than the average. Dr. Muscatel has produced but not yet provided a final report, which will be filed under seal. Dr. Muscatel found that Jeremy is competent, but that his competency is fluid and might at any given time be less than adequate. While Jeremy has maintained a good grasp of the facts of his case and the law that would be applied, including possible defenses to the charge, he also has an idiosyncratic view of life and of the respective roles of judge, accused and the function of government. It is something that at times interferes with Jeremy's interactions with authority. He both confides in and utterly distrusts authority. Thus, with regard to the impounding of his belongings with Josh Collett's car, he had no hesitation about speaking with officers repeatedly, and followed their direction. Yet, appearing before this court, he

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at one point refused to acknowledge his own name for reasons tied to his concepts of government and ownership. As indicated above, Jeremy has struggled at times in custody because he cannot necessarily find the internal resources to get along when he needs to. In other words, incarceration punishes Jeremy more than it would an average similarly situation man.

Conclusion

For the foregoing reasons, Mr. Uvalle respectfully requests that this court sentence him to the equivalent of time served. The facts of this case are nonviolent, it is a crime of categorical ineligibility. Mitigating circumstances indicate that Jeremy has served more than enough time in custody.

Respectfully submitted this 31st day of March, 2017.

s/Robin C. Emmans
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CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notifications of such filing to AUSA Thomas Hanlon.

s/ Robin C. Emmans
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